

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,)
Plaintiff,)
vs.) No. CV 10-03561 WHA
GOOGLE, INC.,)
Defendant.)
_____)

-- HIGHLY CONFIDENTIAL, ATTORNEYS' EYES ONLY --

Videotaped Federal Rule 30(b)(6) deposition of
MARK B. REINHOLD, PH.D., taken at the law offices
of Morrison & Foerster LLP, 755 Page Mill Road,
Palo Alto, California, commencing at 9:40 a.m.,
on Friday, August 5, 2011, before
Leslie Rockwood, RPR, CSR No. 3462.

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1 A. My understanding is that they -- is that the
2 company did not want engineers to become tainted with
3 other intellectual property that, you know, may wind up
4 getting the company into trouble.

5 Q. So you described the company's policies at 10:01:22
6 least in part with respect to obtaining its own
7 intellectual property protection for technology.

8 A. Uh-huh.

9 Q. On the flip side, do you recall whether Sun
10 had a policy with regard to freedom to operate of its own 10:01:35
11 technology?

12 A. I'm not sure what you mean.

13 Q. So in developing technology at Sun, do you
14 recall whether or not, from an IP perspective, Sun had a
15 practice of determining whether or not it would have 10:02:01
16 freedom to operate that technology with respect to the
17 intellectual property rights of others?

18 MR. MUINO: Objection to form. I'll also
19 caution the witness not to reveal the contents of any
20 communications with attorneys. 10:02:14

21 THE WITNESS: I -- I don't remember anyone
22 ever discussing the term "freedom to operate" or being an
23 issue.

24 Q. BY MR. WEINGAERTNER: Well, I'll try to
25 rephrase that. 10:02:28

1 Do you recall whether or not there was a
2 practice of conducting searches to insure
3 non-infringement of third-party IP rights?

4 A. I do not recall such a practice.

5 Q. And what familiarity have you had -- again, 10:02:49
6 I'm referring to at Sun prior to the acquisition --
7 regarding communications with Apache, the Apache
8 Foundation?

9 A. So I was not directly involved in
10 communicating with Apache as a representative of the 10:03:06
11 company. I'm aware of many of the interactions that
12 happened over the years, even prior to the whole JCP
13 dispute.

14 Q. And what is "the whole JCP dispute" that you
15 referred to? 10:03:24

16 A. That would be Apache's open letter demanding
17 that Sun grant a TCK license per Apache's interpretation
18 of the JSPA. Do you want me to define those terms or do
19 you know what they are?

20 Q. If you're able to for the court reporter, 10:03:42
21 that would be helpful. I appreciate that.

22 A. So the JSPA is the Java Specification
23 Participation Agreement, which defines the JCP. And the
24 TCK is the Technology Compatibility Kit, a very large set
25 of conformance tests used to validate an implementation 10:04:11

1 of a Java platform. In this case, it was the Java SE
2 platform.

3 Q. Do you recall what Apache's interpretation of
4 the JSP (sic) was at that time?

5 A. Apache's interpretation of the JSPA was that 10:04:29
6 it obligated Sun to grant Apache a license to the TCK
7 without any field-of-use restrictions.

8 Q. And again, just briefly by way of background,
9 what is a field-of-use restriction?

10 A. A field-of-use restriction is language in the 10:04:47
11 license that grants the rights -- grants the rights of
12 the license in a restricted way only for use on the
13 specific kinds of technology platforms.

14 Q. Do you recall what the -- well, let me step
15 back. 10:05:16

16 The field-of-use restriction was imposed by
17 Sun?

18 A. Yes.

19 Q. Do you recall whether or not the dispute with
20 Apache and Sun regarding field-of-use restrictions was 10:05:25
21 ever resolved?

22 A. It was not resolved by Sun. It was later
23 resolved by Oracle.

24 Q. Do you recall whether or not Sun ever took
25 legal action against Apache prior to the acquisition of 10:05:45

1 Sun by Oracle with regard to this issue of the
2 field-of-use --

3 A. I'm not aware of any legal action.

4 Q. Again, just by way of establishing some
5 background, what knowledge do you have about the terms 10:06:02
6 "fragmentation" or "forking," especially with respect to
7 the Java platform?

8 Let me step back.

9 Are the terms "fragmentation" or "forking"
10 familiar to you, especially -- 10:06:19

11 A. Yes, of course.

12 Q. -- with respect to the Java platform?

13 And do you consider yourself knowledgeable
14 about those terms?

15 A. Uh-huh, yes. 10:06:29

16 Q. Are there others who were at Sun who are now
17 at Oracle who are also considered particularly
18 knowledgeable about the topics of fragmentation or
19 forking in the Java platform?

20 A. Yes. 10:06:47

21 Q. Who would you consider among the most
22 knowledgeable individuals that -- now at Oracle on those
23 topics?

24 A. Well, certainly some of the people I spoke
25 with, Bill Shannon, Patrick Curran. As to others still 10:07:03

1 THE WITNESS: No.

2 Q. BY MR. WEINGAERTNER: Do you know whether --
3 can you rule out whether or not Sun discussed with Oracle
4 the topic of enforcement of Java related intellectual
5 property rights prior to its acquisition by Oracle? 11:43:53

6 MR. MUINO: Objection. Form. Outside the
7 scope of the topics. Asked and answered.

8 THE WITNESS: I can't rule it out.

9 MR. WEINGAERTNER: We're actually almost at
10 the end of the tape, so I think we should go off the 11:44:10
11 record.

12 THE VIDEOGRAPHER: This is the end of Disk
13 Number 1, Volume 1. We are off the record at 11:44 a.m.

14 (Recess.)

15 THE VIDEOGRAPHER: This is the beginning of 11:47:53
16 Disk Number 2, Volume 1. We are back on the record at
17 11:57 a.m.

18 You may proceed.

19 Q. BY MR. WEINGAERTNER: Welcome back, again,
20 Dr. Reinhold. I want to go back to fragmentation related 11:57:45
21 issues.

22 What is a technology compatibility kit? You
23 referred to it earlier. I just want to get your views of
24 what that is and what role it plays with respect to Java?

25 A. Right. So a technology compatibility kit is 11:58:05

1 a suite of tests -- a very large suite of tests, usually,
2 for the platforms, which any -- well, let me roll back a
3 little bit.

4 It's a large suite of tests. Any particular

5 JSR, Java specification request, in the JCP must deliver 11:58:25

6 a specification, a reference implementation and a

7 technology compatibility kit. So there are -- there are

8 JSRs, you know, for, sort of, smallish bits of

9 technology, but the JSR process is also how the platforms

10 themselves are evolved. 11:58:46

11 And so, for example, Java SE 7, which just

12 completed, you know, is a very large TCK, tens of

13 thousands of tests in it. For anyone to ship an

14 implementation and claim that it is a -- that it is a

15 valid implementation of Java SE 7, they must pass all of 11:59:04

16 the tests in that TCK. And that constraint applies to,

17 you know, Oracle as well as anyone else.

18 Q. And just briefly, what is a spec within the
19 framework of the JCP?

20 A. A specification is the abstract definition of 11:59:20

21 a technology or platform. It is a -- you can think of it

22 as a very large written document. It describes what all

23 the interfaces are, what the APIs are, how they're meant

24 to behave, you know, down to very small details of if you

25 invoke this method in this class with this kind of 11:59:49

1 argument, then it must do thus and so. Unless some other
2 thing is false, in which case it will do this other
3 thing.

4 But that's the nature of it. It's basically
5 a very large written document in practice spread across 12:00:00
6 many HTML pages.

7 Q. So it's like a blueprint but implemented in
8 English and graphics that sort of lays out, as best one
9 can, what the structure of a Java product would be?

10 MR. MUINO: Objection. Form. 12:00:20

11 THE WITNESS: It lays out what it must look
12 like and how it must behave. It says nothing about how
13 it must be implemented.

14 Q. BY MR. WEINGAERTNER: Then you referred to
15 the reference implement or RI? 12:00:39

16 A. Yes.

17 Q. What is that?

18 A. A reference implement is an actual
19 implementation of embodiment of the specification, and
20 the point of that is to demonstrate that the 12:00:50
21 specification can be implemented. And it is a hard
22 requirement that the reference implementation has to pass
23 the TCK.

24 Q. And, again, the TCK is the technology
25 compatibility kit? 12:01:03

Attorneys' Eyes Only

1 STATE OF CALIFORNIA) ss:
2 COUNTY OF MARIN)

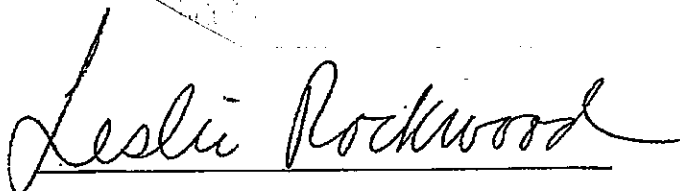
3
4 I, LESLIE ROCKWOOD, CSR No. 3462, do hereby
5 certify:

6 That the foregoing deposition testimony was
7 taken before me at the time and place therein set forth
8 and at which time the witness was administered the oath;

9 That testimony of the witness and all
10 objections made by counsel at the time of the examination
11 were recorded stenographically by me, and were thereafter
12 transcribed under my direction and supervision, and that
13 the foregoing pages contain a full, true and accurate
14 record of all proceedings and testimony to the best of my
15 skill and ability.

16 I further certify that I am neither counsel
17 for any party to said action, nor am I related to any
18 party to said action, nor am I in any way interested in
19 the outcome thereof.

20 IN WITNESS WHEREOF, I have subscribed my name
21 this 6th day of August, 2011.

22
23
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25 LESLIE ROCKWOOD, CSR. NO. 3462

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